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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,252

03/30/2004

Rutvik Doshi

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BAKER BOTTS L.L.P.

2001 ROSS AVENUE

SUITE 600

DALLAS, TX 75201-2980

EXAMINER

POLLACK, MELVIN H

ART UNIT

PAPER NUMBER

2445

NOTIFICATION DATE

DELIVERY MODE

02/12/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/813,252	<b>Applicant(s)</b> DOSHI ET AL.	
	<b>Examiner</b> MELVIN H. POLLACK	<b>Art Unit</b> 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)                           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application                 |
| Paper No(s)/Mail Date _____  | 6) <input checked="" type="checkbox"/> Other: <u>see attached office action</u> . |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 19 November 2008 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.

2. The 112 rejection is withdrawn in light of the amendments and remarks (Pp. 6-7). The term has been properly redefined by the specification, and the unusual definition has been accepted accordingly.

3. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the management device must include a firewall (P. 8)) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. Applicant argues that Reddy does not expressly disclose that the remote agents (Fig. 2, #72) and management device (Fig. 2, #20) are not separated by a firewall, despite the existence of a firewall (Fig. 2, #50).

5. The argument appears to be that applicant considers the management device to actually be the application manager (Fig. 2, #70) and/or communication layer (Fig. 2, #60), despite their control of a single domain (Fig. 2, #30a and #30b). However, the claims do not describe the management device as performing the actual gathering, but rather leave that to the services on the agents. The management portal is appropriately considered the management device because

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it performs monitoring and management of all domains, and because it transmits management instructions (Fig. 4) and receives information for reporting and analysis in return (Fig. 3).

6. Applicant also argues, regarding claim 13, that Reddy must teach solicited alerts. First, no person of the knowledge and common sense of a person with ordinary skill in the art would define unsolicited alerts to include not just reporting requests but any command, registration or subscription. Second, while it is true that the user might request in advance information about very particular items, it is clear that many alerts are hardwired into the system or based on the situation at hand (col. 6, line 15 - col. 9, line 5).

7. Therefore, the rejections are maintained for the reasons above. This action is final.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Reddy et al. (7,062,540).

10. For claims 1, 5, 9, Reddy teaches a method and system (abstract) for management and configuration of remote agents (col. 1, line 1 – col. 3, line 40; col. 9, lines 5-10), comprising:

a. Using a management device (Fig. 2, #20) to provide at least one web service (Fig. 2; col. 3, line 65 – col. 4, line 65);

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- b. Providing an agent metadata service on each of a plurality of remote agents (col. 3, lines 40-65; col. 5, lines 8-55), each of the plurality of remote agents (Fig. 2, #72) separated from the management device by at least one of a firewall, proxy server and VPN (Fig. 2, #50), each agent metadata service operable to retrieve agent metadata residing on the remote agent based on one or more detection parameters (col. 5, line 55 – col. 6, line 59);
  - c. Receiving, by the at least one web service, the agent metadata from the plurality of remote agents (col. 7, line 35 – col. 8, line 35); and
  - d. Detecting, by the at least one web service, at least one remote agent on a network based on the agent metadata (col. 6, line 59 – col. 7, line 35); and
  - e. Performing at least one of managing and configuring the at least one remote agent based on the at least one web service (col. 6, lines 15-35).
11. For claims 2, 6, 10, Reddy teaches that the at least one remote agent comprises a web service based management interface, wherein the web service based management interface allows a manager to remotely examine and configure the at least one remote agent (col. 4, lines 30-60).
12. For claims 3, 7, 11, Reddy teaches that the manager remotely examines and configures the at least one remote agent through a central management console (col. 8, line 20 – col. 9, line 5).
13. For claims 4, 8, 12, Reddy teaches that the at least one remote agent is configured to run across a firewall, a proxy server, and/or a virtual private network (col. 4, lines 15-30; col. 8, lines 15-20).

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14. For claims 13-15, Reddy teaches receiving at least one unsolicited alert notification from the at least one remote agent, the at least one alert notification comprising an indication of a change to the at least one remote agent (col. 6, lines 15-30; col. 8, lines 5-35).

***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. H. P./  
Examiner, Art Unit 2445  
30 January 2009

/Larry D Donaghue/  
Primary Examiner, Art Unit 2454